

110TH CONGRESS  
2D SESSION

# S. 3174

To improve port and intermodal supply chain security.

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## IN THE SENATE OF THE UNITED STATES

JUNE 20 (legislative day, JUNE 19), 2008

Mr. LAUTENBERG (for himself, Mr. MENENDEZ, Mrs. CLINTON, and Mr. SCHUMER) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To improve port and intermodal supply chain security.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

### 3       **SECTION 1. SHORT TITLE: TABLE OF CONTENTS.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Port Authority of New York/New Jersey Port Security  
6       Task Force Implementation Act of 2008”.

7       (b) TABLE OF CONTENTS.—The table of contents for  
8       this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Secure systems of international intermodal transportation.
- Sec. 3. Regional recovery plans.
- Sec. 4. National tactical plans.
- Sec. 5. Risk based resource allocation.
- Sec. 6. Use of maritime security risk assessment model.

- Sec. 7. Maritime and cargo security integrated project teams.
- Sec. 8. Integration of security plans and systems with local port authority and law enforcement agencies.
- Sec. 9. Standardized policy for advanced notice of Coast Guard boarding for security or port state control inspections.
- Sec. 10. Fraudulent or tampered with transportation worker identification cards.
- Sec. 11. Federal licensing of ship agents.
- Sec. 12. Establishment of a security individual.
- Sec. 13. Certification of maritime security guards.
- Sec. 14. Grants to tier 1 and tier 2 ports require regional strategic risk management assessment.
- Sec. 15. Vessel security plans for supply and similar vessels.

1 **SEC. 2. SECURE SYSTEMS OF INTERNATIONAL INTER-**  
 2 **MODAL TRANSPORTATION.**

3 Section 70116 of title 46, United States Code, is  
 4 amended—

5 (1) by striking “transportation.” in subsection  
 6 (a) and inserting “transportation—

7 “(1) to ensure the security and integrity of  
 8 shipments of goods to the United States from the  
 9 point at which such goods are initially packed or  
 10 loaded into a cargo container for international ship-  
 11 ment until they reach their ultimate destination; and

12 “(2) to facilitate the movement of such goods  
 13 through the entire supply chain through an expe-  
 14 dited security and clearance program.”; and

15 (2) by striking subsection (b) and inserting the  
 16 following:

17 “(b) PROGRAM ELEMENTS.—Within one year after  
 18 the date of enactment of the Port Authority of New York/  
 19 New Jersey Port Security Task Force Implementation Act

1 of 2008, the Secretary, acting through the Commissioner  
2 of Customs and Border Protection, shall—

3 “(1) establish minimum standards and proce-  
4 dures for verifying, at the point at which goods are  
5 placed in a cargo container for shipping, that the  
6 container is free of unauthorized contents, including  
7 hazardous chemical, biological, radiological, or nu-  
8 clear material and for securely sealing such con-  
9 tainers after the contents are so verified;

10 “(2) establish standards and procedures for se-  
11 curing cargo and monitoring that security while in  
12 transit;

13 “(3) develop performance standards to enhance  
14 the physical security of shipping containers, includ-  
15 ing performance standards for seals and locks and  
16 protocols and procedures to address anomalies;

17 “(4) establish standards and procedures for  
18 screening and evaluating cargo prior to loading in a  
19 foreign port for shipment to the United States either  
20 directly or via a foreign port;

21 “(5) establish standards and procedures that  
22 will enable the United States Government to ensure  
23 and validate compliance with those standards and  
24 procedures; and

1           “(6) incorporate any other measures the Sec-  
 2       retary considers necessary to ensure the security and  
 3       integrity of international intermodal transport move-  
 4       ments.

5       “(c) REQUIREMENTS FOR ENTRY OF CONTAINERS.—  
 6       Beginning 1 year after the date on which the Secretary  
 7       determines that the standards and procedures under sub-  
 8       section (b)(5) have been established and are in effect, the  
 9       Commissioner of Customs and Border Protection shall  
 10      refuse entry into the customs territory of the United  
 11      States to any container, arriving directly or via a foreign  
 12      port, unless the entity shipping the container has complied  
 13      with those standards and procedures with respect to that  
 14      container.”.

15   **SEC. 3. REGIONAL RECOVERY PLANS.**

16       (a) ESTABLISHMENT.—Section 70103(b)(2) of title  
 17      46, United States Code, is amended—

18           (1) by redesignating subparagraphs (E)  
 19       through (G) as subparagraphs (F) through (H), re-  
 20       spectively; and

21           (2) by inserting after subparagraph (D) the fol-  
 22       lowing:

23           “(E) establish regional response and recov-  
 24       ery protocols to prepare for, respond to, miti-  
 25       gate against, and recover from a transportation

1 security incident consistent with section 202 of  
2 the Security and Accountability for Every Port  
3 Act of 2006 (6 U.S.C. 942) and section  
4 70103(a) of title 46, United States Code;”.

5 (b) COORDINATION OF PLANS.—Section 70103(b)(1)  
6 of title 46, United States Code, is amended—

7 (1) by striking “and” after the semicolon in  
8 subparagraph (F);

9 (2) by redesignating subparagraph (G) as sub-  
10 paragraph (H); and

11 (3) by inserting after subparagraph (F) the fol-  
12 lowing:

13 “(G) be consistent with, and support implemen-  
14 tation of, the National Incident Management Sys-  
15 tem, the National Response Plan, the National In-  
16 frastructure Protection Plan, the National Prepared-  
17 ness Guidance, the National Preparedness Goal, the  
18 National Transportation Security Plan, National  
19 Tactical Plans, and other similar initiatives; and”.

20 (c) USE OF AREA MARITIME TRANSPORTATION SE-  
21 CURITY PLANS IN EXERCISES.—Section 114(b)(1) of the  
22 SAFE Port Act (6 U.S.C. 912(b)) is amended—

23 (1) by striking “and” after the semicolon in  
24 paragraph (1);

1           (2) by redesignating paragraph (2) as para-  
2           graph (3); and

3           (3) by inserting after paragraph (1) the fol-  
4           lowing:

5           “(2) utilizes the Area Maritime Transportation  
6           Security Plans established under section 70103(b) of  
7           title 46, United States Code, in conducting such ex-  
8           ercises; and”.

9   **SEC. 4. NATIONAL TACTICAL PLANS.**

10          The Secretary of the department in which the Coast  
11          Guard is operating shall ensure that the National Tactical  
12          Plan is shared with the Area Maritime Security Commit-  
13          tees established under section 70112 of title 46, United  
14          States Code. The Area Maritime Security Committees  
15          shall use the plan in developing regional and local plans  
16          and for exercises.

17   **SEC. 5. RISK BASED RESOURCE ALLOCATION.**

18          (a) NATIONAL STANDARD.—Within 1 year after the  
19          date of enactment of this Act, in carrying out chapter 701  
20          of title 46, United States Code, the Homeland Security  
21          Act of 2002, and the Security and Accountability for  
22          Every Port Act of 2006 the Secretary of the department  
23          in which the Coast Guard is operating shall develop and  
24          utilize a national standard and formula for prioritizing  
25          and addressing assessed security risks at United States

1 ports, such as the Maritime Assessment Strategy Tool  
2 that has been tested by the Department of Homeland Se-  
3 curity.

4 (b) USE BY MARITIME SECURITY COMMITTEES.—  
5 Within 2 years after the date of enactment of this Act,  
6 the Secretary shall require each Area Maritime Security  
7 Committee to use this standard to regularly evaluate each  
8 port's assessed risk and prioritize how to mitigate the  
9 most significant risks.

10 (c) OTHER USES OF STANDARD.—The Secretary  
11 shall utilize the standard when considering departmental  
12 resource allocations and grant-making decisions.

13 **SEC. 6. USE OF MARITIME SECURITY RISK ASSESSMENT**  
14 **MODEL.**

15 Within 180 days after the date of enactment of this  
16 Act, the Secretary of the department in which the Coast  
17 Guard is operating shall make the United States Coast  
18 Guard's Maritime Security Risk Assessment Model tool  
19 available, in an unclassified version, on a limited basis to  
20 regulated vessels and facilities to conduct true risk assess-  
21 ments of their own facilities and vessels using the same  
22 criteria employed by the United States Coast Guard when  
23 evaluating a port area.

1 **SEC. 7. MARITIME AND CARGO SECURITY INTEGRATED**  
2 **PROJECT TEAMS.**

3 The Secretary of Homeland Security shall—

4 (1) establish integrated project teams within  
5 the science and technology directorate to assist the  
6 Department of Homeland Security in product re-  
7 search, development, transition, and acquisition ac-  
8 tivities for cargo security; and

9 (2) provide for participation by port authorities  
10 or the appropriate State agency responsible for over-  
11 sight of port areas in such activities.

12 **SEC. 8. INTEGRATION OF SECURITY PLANS AND SYSTEMS**  
13 **WITH LOCAL PORT AUTHORITY AND LAW EN-**  
14 **FORCEMENT AGENCIES.**

15 Section 70102 of title 46, United States Code, is  
16 amended by adding at the end thereof the following:

17 “(c) SHARING OF ASSESSMENT; INTEGRATION OF  
18 PLANS AND EQUIPMENT.—The owner or operator of a fa-  
19 cility shall—

20 “(1) make a current copy of the vulnerability  
21 assessment conducted under subsection (b) available  
22 to the port authority with jurisdiction of the facility  
23 and appropriate State or local law enforcement  
24 agencies; and

25 “(2) integrate, to the maximum feasible extent,  
26 any security system for the facility with compatible



1 systems operated or maintained by the port author-  
 2 ity or such law enforcement agencies.”.

3 **SEC. 9. STANDARDIZED POLICY FOR ADVANCED NOTICE OF**  
 4 **COAST GUARD BOARDING FOR SECURITY OR**  
 5 **PORT STATE CONTROL INSPECTIONS.**

6 Within 90 days after the date of enactment of this  
 7 Act, the Commandant of the Coast Guard shall establish,  
 8 and publish in the Federal Register, a policy governing  
 9 how much advance notice is to be provided by the Coast  
 10 Guard to the owner or operator of a vessel before the ves-  
 11 sel is boarded by the Coast Guard for ISPS compliance  
 12 or Port State Control inspection.

13 **SEC. 10. FRAUDULENT OR TAMPERED WITH TRANSPOR-**  
 14 **TATION WORKER IDENTIFICATION CARDS.**

15 Section 70105 of title 46, United States Code, is  
 16 amended by adding at the end thereof the following:

17 “(n) CONFISCATION OF FRAUDULENT TWICs.—If  
 18 any Federal, State, or local government law enforcement  
 19 officer, or any member of the United States Coast Guard  
 20 in the execution of such officer’s duties, has reasonable  
 21 cause to believe that a transportation security card issued  
 22 under this section is fraudulent, has been unlawfully modi-  
 23 fied, or is otherwise invalid, the officer may confiscate the  
 24 card, notify the Department of Homeland Security, and  
 25 hold the bearer of the card in custody for a reasonable

1 period of time for relinquishment to appropriate law en-  
2 forcement authorities.”.

3 **SEC. 11. FEDERAL LICENSING OF SHIP AGENTS.**

4 (a) IN GENERAL.—Within 1 year after the date of  
5 enactment of this Act, the Federal Maritime Commission  
6 shall establish and implement a procedure for the training,  
7 certification, and licensing of steamship agents and agen-  
8 cies operating in the United States.

9 (b) TWIC REQUIRED.—An individual may not re-  
10 ceive a license under the procedure established by the Fed-  
11 eral Maritime Commission under subsection (a) unless  
12 that individual holds a valid transportation security card  
13 issued under section 70105 of title 46, United States  
14 Code.

15 (c) LICENSE REQUIREMENT.—Beginning 1 year  
16 after the date on which the Federal Maritime Commission  
17 establishes the licensing procedure, or after such date as  
18 the Federal Maritime Commission may establish, it shall  
19 be unlawful for any person to act as a vessel agent in the  
20 United States without a valid license issued by the Federal  
21 Maritime Commission and a valid transportation security  
22 card issued under section 70105 of title 46, United States  
23 Code.

1 (d) ENFORCEMENT.—Violation of subsection (c) is  
2 punishable by imprisonment for not more than 1 year and  
3 a fine under title 18, United States Code.

4 **SEC. 12. ESTABLISHMENT OF A SECURITY INDIVIDUAL.**

5 Under regulations prescribed by the Secretary of  
6 Homeland Security, each vessel documented under chapter  
7 121 of title 46, United States Code, and each foreign ves-  
8 sel entering a United States port, engaged in the commer-  
9 cial transportation of goods or passengers shall—

10 (1) designate a United States person that is re-  
11 sponsible for responding to a transportation security  
12 incident involving the vessel while in a United States  
13 port by notifying appropriate emergency response  
14 entities and facilitating vessel response activities;  
15 and

16 (2) provide notice to the Secretary of Homeland  
17 Security, the Commandant of the Coast Guard, and  
18 the captain of the port of the identity and contact  
19 information for such person.

20 **SEC. 13. CERTIFICATION OF MARITIME SECURITY GUARDS.**

21 (a) IN GENERAL.—Chapter 701 of title 46, United  
22 States Code, is amended by adding at the end thereof the  
23 following:

1 **“§ 70122. Incident command system training**

2       “The Secretary shall ensure that all maritime secu-  
3 rity guards meet minimum training and performance  
4 standards in the Department of Homeland Security’s se-  
5 curity awareness and response procedures and in the han-  
6 dling of hazardous materials.”.

7       (b) CONFORMING AMENDMENT.—The chapter anal-  
8 ysis for chapter 701 of title 46, United States Code, is  
9 amended by inserting after the item relating to section  
10 70121 the following:

“70122. Incident command system training.”.

11 **SEC. 14. GRANTS TO TIER 1 AND TIER 2 PORTS REQUIRE**  
12 **REGIONAL STRATEGIC RISK MANAGEMENT**  
13 **ASSESSMENT.**

14       Section 70107(a) of title 46, United States Code, is  
15 amended by adding at the end “The Secretary shall estab-  
16 lish regional strategic risk management priorities for tier  
17 1 and tier 2 ports and take such priorities into account  
18 in awarding grants under this section.”.

19 **SEC. 15. VESSEL SECURITY PLANS FOR SUPPLY AND SIMI-**  
20 **LAR VESSELS.**

21       (a) IN GENERAL.—Section 70103(c)(2)(A) of title  
22 46, United States Code, is amended by striking “inci-  
23 dent;” and inserting “incident (including supply vessels,  
24 bunker and fuel deliver and launch vessels conducting ac-

1 tivities or providing services to other vessels at anchor-  
2 age;”.

3 (b) TWICS REQUIRED FOR CREW.—Section  
4 70105(b)(2)(F) of title 46, United States Code, is amend-  
5 ed by inserting “personnel working on board vessels de-  
6 scribed in section 70103(c)(2)(A) of this title and” after  
7 “(F)”.

8 (c) EFFECTIVE DATE.—The amendments made by  
9 this section shall take effect 1 year after the date of enact-  
10 ment of this Act.

○